BIG BOY MAY BE SPANKED BY DAD

Father Who Finds Missing Toulon Giant Said That With Aid of Mother He Might.

Harold Hogan, the big Toulon county boy, who stands six foot two inches in his stocking feet, and weighs 215 pounds, and who the Rock Island police were seeking Monday night, after he ran away from home, was found by his father in Moline yesterday afternoon.

Mr. Hogan, Sr., came to Rock Island first and after he learned that the police here had not located his son, he felt sure the boy did not stop in this city. He then went to Moline where he found the lad in quest of work.

He stopped off in Rock Island again on return route and in answer to questions of Desk Sergeant Arthur Kinsley, stated that he did not know whether or not he would spank his son when he got him home. He said that providing his mother would assist, chastisement might be meted out to the runaway.

By way of explanation it may be said that the father is about a foot shorter than the son and weighs considerably less.

HARVESTER IS GIVEN ORDERS TO SEPARATE

(Continued From Page One.)

man law, for only two actions. The opinion declares that there was no excuse for the advertising of the products of D. M. Osborne & Co. as independent for two years after it had entered the International Harvester company. This advertising was to induce purchasers, the court finds, from those who were opposed to buying from the combination.

The other act censured by the decision was the manner in which the five original concerns were turned over to the International company by William C. Lane, a New York banker, who contended that he had purchased the properties.

"The court is clearly of the opinion," the decision reads, "that the process by which it was made to appear that the properties were sold to Lane was merely colorable."

The court holds, however, that the property turned in to the International company was greater than the stock issued for it, and that the case involves no question of overcapitalization.

The court cites portions of the decision in the case of the Standard Oil company, the American Tobacco company, the DuPont De Nemours & Co., and other cases as to what constitutes the restraint of trade, reasonable and unreasonable, and concludes:

"We think it may be laid down as a general rule that if companies could not make a legal contract as to prices or as to collateral services, they could not legally unite, and as the companies named did in effect unite, the sole question is as to whether they could have agreed on prices, and what collateral services they would render when their companies were all prosperous, and they jointly controlled 80 to 85 per cent of the business in that line in the United States. We think they could not have made such an agreement.

Competition Eliminated.

"If the five companies which formed the International had been small and their combination had been essential to enable them to compete with large corporations in the same line, then their uniting would, in the light of reason, not have been in restraint of trade, but in the furtherance of it; but when they constituted the largest manufacturers of their articles in America, if not in the world, and held jointly about 80 to 85 per cent of the trade, and two at least of the companies forming the combination were prosperous, their combining was, when similarly viewed, an unreasonable restraint of trade. If the business of the separate companies combining was unsuccessful it could be plain that their combination was reasonable in view of the rule of reason as proclaimed by the supreme court, but it is conceded that the McCormick and the Deering companies 'had established reasonably successful and prosperous businesses,' so that question is eliminated.

"There is no limit under the American law to which a business may not independently grow, and even a combination of two or more businesses if it does not unreasonably restrain trade, is not illegal; but it is the combination which unreasonably restrains trade that is illegal, and if the parties in controversy have 80 or 85 per cent of the American business, and by the combination of the companies all competition is eliminated between the constituent parts of the combination, then it is in restraint of trade within the meaning of the statutes under all of the decisions."

The decision reviews the history of the manufacture of harvesting implements in the United States, asserting that prior to the organization of the International Harvester company the principal manufacturers of harvesting implements in the United States were:

The McCormick Harvesting Machine company of Chicago, founded in about 1849.

D. M. Osborne & Co., of Auburn, N. Y., founded about 1860.

The Warder, Bushnell & Glessner Co., of Springfield, Ohio, founded about 1869.

The Deering Harvester company, of Chicago, founded about 1875.

The Milwaukee Harvester Co., of Milwaukee.

The Plano Manufacturing Co., of West Pullman, Ill.

According to the decision, the efforts to combine these concerns began on June 24, 1902, when T. D. Middlekauff secured an option on the stock and plant of the Milwaukee Harvester Co. for $3,123,691. "He did this," the decision says, "in fact as agent, though it does not clearly appear who his principal was, whether J. P. Morgan & Co., George W. Perkins, or the McCormick Harvesting Machine company. He did it, however, at the direct instance of the McCormick Harvesting Machine company, but whether he was acting as principal or agent is left in some slight doubt.

The court quotes parts of section 1 and 2 of the Sherman law, and asserts that the statues must be construed in the light of reason. He then quotes from the decision of the United States Supreme Court its decision as to the rule of reason in the case of the United States against the American Tobacco Co., and continues:

"No weight is attached, therefore, to the means by which the combination was formed, if the combination was within the purview of the statute as created. The fact that this combination took the form of a new corporation is immaterial.

"Was this combination in restraint of trade? It substantially suppressed all competition between five companies, and the restraint of competition between combining companies is as illegal as destruction of competition between them without combining. * *

"We think it may be laid down as a general rule that if companies could not make a legal contract as to prices, or as to collateral services, they could not legally unite and as the companies named did in effect unite, the sole question is as to whether they could have agreed on prices and what collateral services they would render when their companies were all prosperous and they jointly controlled 80 to 85 per cent of the business in that line in the United States. We think they could not have made such an agreement. * * *

"The International is not only a great manufacturing company but by the America company is a great dealer in agricultural implements in interstate and foreign commerce. * * *

"Congress has condemned any combination in restraint of either the foreign or interstate trade, and if the International Harvester Company was in restraint of either the interstate or foreign it was unlawful. It would not be lawful to restrain the interstate trade, in order to build up the foreign trade. The International by suppressing all competition between the five original companies was in restraint of trade as prohibited in the first section of the Sherman law and it tended to monopolize within the meaning of the second section of the same law, and this restraint and this monopoly were the direct and immediate effect of the consolidation, and were not incidental and uncertain in their effect.

"We conclude, that the International Harvester Company was from the beginning in violation of the first and second sections of the Sherman law, and that this condition was accentuated by the reorganization of the American company and by the subsequent acquisitions of competing plants, and that all the defendants' subsidiary companies became from time to time parties to the illegal combination, and the defendant companies are combined to monopolize a part of the interstate and foreign trade.

"It will, therefore, be ordered that the entire combination and monopoly be dissolved, that the defendants have ninety days in which to report to the court a plan for the dissolution of the entire unlawful business into at least three substantially equal, separate, distinct and independent corporations with wholly separate owners and stockholders, or in the event this case is appealed and this decree superceded, then within ninety days from the filing of the procedendo or mandate from the supreme court, the defendant shall file such plan, and in case the defendants fail to file such plan within the time limit, the court will entertain an application for the appointment of a receiver for all the properties of the corporate defendants, and jurisdiction is retained to make such additional decrees as may become necessary to secure the final winding up and dissolution of the combination and monopoly complained of and as to costs."

Judge Hock, concurring, says: "The International Harvester company is not the result of the normal growth or the fair enterprise of an individual, a partnership or a corporation. On the contrary, it was created by combining five great competing companies which controlled more than 80 per cent of the trade in necessary farm implements, and it still maintains a substantial dominance. That is the controlling fact; all else is detail. It may be, as is said, that there is a growing recognition of the need of great concentrated resources for trade and commerce, even though secured by combination of independent, competing concerns. But that is not the Sherman act. And a statute must be taken by the courts as a true estimate of the preponderence of public opinion which calls for legislative expression. It is not for them to question whether that opinion was weighed or interpreted, whether it is wise or unwise or whether it has since changed.

"It is but just, however, to say and to make it plain, that in the main the business conduct of the company towards its competitors and the public has been honorable, clean and fair. Some petty dishonesties were tracked in at the start, mostly by subordinates who had been in the service of the old companies, but they were soon gotten rid of. In this connection it should also be said that specific charges of misconduct were made in the government's petition which found no warrant whatever in the proof. They were of such a character and there was so much of them, apparently without foundation, that the case is exceptional in that particular."

Judge Sanborn, dissenting, says with profound respect for the judgment of his court associates, he finds himself forced to disagree with them in this opinion, and in part says:

"First, because it seems to me to give insufficient consideration to the trade conduct of the defendants at the time this suit was commenced, in April, 1912, and for seven years before that date, and then were not either so doing or threatening so to do.

"Conceding but not admitting, that if the combination of 1902 and 1903 had been challenged in 1903 and 1904 before the actual effect of the conduct of its business by the defendants upon interstate and foreign trade had been demonstrated by the actual trial of it from 1905 to 1912, a court might have presumed that the defendants were violating the anti-trust law and have so found on the theory that those who have power to violate a law are presumed to do so, yet the demonstration by the actual trial which the evidence seems to me to present that at the time this suit was commenced the defendants were, and for at least seven years before that time had been, conducting the business of the international company and their business without unduly restraining or monopolizing interstate or foreign trade, ought to and in my mind must, far outweigh that questionable presumption. This alleged presumption never seemed well founded or reasonable to me, and now that the rule of reason must be applied to the interpretation of the anti-trust law and to its application to the fact of each particular case, I think this alleged presumption should be deemed functus officio.

"The controlling issue in this case is not what combination or monopoly was made in 1902, 1903 or 1904, nor whether or not that combination was violative of the anti-trust law. It is, were the defendants in 1912 doing or threatening to do acts which so unreasonably restrained or monopolized interstate or foreign trade that it is the duty of this court of equity to enjoin and prevent their future performance.

"Sections 1 and 2 of the anti-trust law forbids combinations and monopolies in undue restraint of interstate or foreign trade and prescribe punishment by fine or imprisonment, or both, for any violation thereof, and section 725 of the revised statutes bars any prosecution under these acts for such violation three years after they are committed. If, therefore, a combination or monopoly in unreasonable restraint of trade was made in 1902, 1903 or 1904, the proceedings to punish for the making thereof was barred many years before this suit was commenced.

"Section 4 of the act gives jurisdiction to this court 'to prevent and restrain violations of this act,' but it grants this court no power to punish past violations thereof. This suit is not a proceedings to punish the defendants for deeds done in the past. It is a suit in equity under section 4 to prevent and restrain future violations of the anti-trust law. It looks to the future, not to the past, and this court is not only without jurisdiction to punish defendants for past violations of this law, but persons who at some past time combined to unreasonably restrain or monopolize interstate or international trade were not thereby deprived of their right thereafter and now to conduct such trade in obedience to the law.

"The particular facts proved in this individual case not only fail to show that the defendants were unduly or unreasonably restraining or attempting to monopolize interstate foreign trade, or threatening to do so at the time this suit was commenced and for seven years before that time, but they establish the converse."

Judge Sanborn declares that the anti- trust law is a resurrection of the ancient English rule of public policy against undue and unreasonable restraint of trade and unreasonable monopolies. He insists that it does not forbid all restraint nor restrictions of competition, but only those which are unreasonably injurious to the public, and that, as Chief Justice White said, 'the statute under this view evidenced the intent not to restrain the right to make and enforce contracts, whether resulting from combination or otherwise, which did not unduly restrain interstate or foreign commerce, but to protect that commerce from being restrained by methods, whether old or new, which would constitute an interference that is an undue restraint,' and now rules of interpretation and application of this law conclusively established by the repeated decisions of the highest judicial tribunal in the land.

"It is equally well established that the reason for the prohibition by the English rule of public policy and by the statute under consideration of unreasonable restraints and attempts to monopolize trade was and is that by unduly restricting competition they are injurious to the public in that (1) they raise the prices to the consumers of the articles they affect, (2) limit their production, (3) deteriorate their quality, and (4) decrease the wages of the labor and the prices of materials required to produce them.

"And if in any individual case the weight of the evidence fails to prove that the defendants' conduct of their business is so restricting or threatening to restrain competition in the articles they make and sell as to unduly injure the public by (1) raising the prices of the articles to the consumers or (2) limiting their production, or (3) deteriorating their quality, or (4) decreasing the prices paid for the labor or materials required to produce them, or (5) by unfair and oppressive treatment of competitors, neither undue or unreasonable restraint of competition, nor of trade, nor undue attempt to monopolize is established. The reason for the rule and for the prohibition in the law does not exist and the law is inapplicable.

"The facts which have been received and other facts and circumstances to the same effect seem to me to establish the conclusion that during the 10 years of the operation of the International Harvester company neither it nor the defendants were, nor are they, drawing to it, its competitors' share of the interstate trade in harvesting machinery, or excluding them therefrom, and that, on the other hand, the International company's proportion of this trade has been decreasing and that of its competitors increasing.

"Among the innumerable acts of the defendants and their agents in conducting their vast business for a decade, the government found some that were unfair to competitors, but they were either unauthorized acts of subordinate agents or sporadic, and exceptional instances. The weight of the evidence of the officers and agents of their competitors who came in large numbers to testify, and of all witnesses upon the subject, is also overwhelming that the general conduct and the almost universal practice of the defendants and their agents was and is free from all methods and acts either unlawful, unfair or oppressive toward their competitors, that it has left no doubt that the consistent and persistent purposes, policy, rule of action and practice of the defendants has been and is to avoid and prevent all acts and methods unfair, unjust or oppressive toward their competitors.

"Their prices to the consumers remained nearly stationary and increased far less than the prices of other agricultural machinery the trade in which was not claimed to have been restrained or monopolied. The chief harvesting machine was the binder. Its price advanced about five per cent during some of the intermediate years, but was substantially the same in 1912 for a better machine than it was for a poorer machine in 1902, while the price of cultivators, wagons and plow goods, which were certainly not monopolized, advanced from 10 to 30 per cent. And the acts of the defendants and the proved effect of their acts during at least seven years before this suit was commenced to my mind demonstrate the fact that they were neither unduly or unreasonably restraining or attempting to monopolize interstate or foreign trade in the articles they made and sold and that they and their case fall far without the prohibition of the anti-trust law and the reason for it.

"The only reason for the prevention or restraint of acts of defendants in a suit under the fourth section of the statute is, as we have seen, that they are or threaten to be unduly injurious to the public. If they are not thus injurious or if they are beneficial and such restraint or prevention of their acts would be injurious to the public they should not be restrained or prevented."

Judge Sanborn then refers to the claim of the defendants that the main purposes of the combination of 1902 and 1903 was to develop the foreign trade in American harvesting machinery and that to do so required more capital, and concludes by reciting how this trade was increased and that it gave additional employment to American labor at increased wages, and says "any receivership or subdivision of the property and the business of these defendants cannot fail to tend to cripple and diminish this business, to restrain the advance or to decrease the wages of the laborers and the prices of the materials required to carry it on and thereby inflict injury upon the public.

"The evidence in this suit seems to me to present a new case under the anti-trust law. No case has been found in the books and none has come under my observation in which the absence of all the evils against which that law was directed at the time the suit was brought and for seven years before was so conclusively proved as in this suit, the absence of unfair or oppressive treatment of competitors, of unjust or oppressive methods of competition, the absence of the drawing of an undue share of the business away from competitors and to the defendants, the absence of the raising of prices of the articles affected to their consumers, the absence of the limiting of the product, the absence of the decrease of the wages of the laborers and of the prices of materials, the absence, in short, of all the elements of undue injury to the public and undue restraint of trade, together with the presence of free competition which increased the share of the competitors in the interstate trade and decreased the share of the defendants. Neither the Standard Oil company case nor the American Tobacco company case, nor any other authority cited, seem to me to rule this case, because in none of them was there such affirmative and to my mind conclusive eveidence that for years before the suits were commenced the defendants had practiced no acts and pursued no methods which constituted an undue restraint of trade or an unreasonable attempt to monopolize it.

"In my opinion a decree should be rendered that the complaint in this suit be dismissed without prejudice to the right of the United States to bring another suit of like character against any of the defendants whenever any of them is found to be engaged in the commission of any acts in violation of the anti-trust statute."

HARSON IS BOUND OVER TO THE JURY

Old Man Charged With Taking Indecent Liberties With Little Girls.

William Harson, a widower 57 years of age, charged with taking indecent liberties with little girls, was arraigned in police court this morning before Justice Fred Entrikin and bound to the grand jury under bonds of $1,500. Being unable to furnish the bonds Harson was sent to jail.

Harson was arrested a month ago. The case was twice continued.

Seven women, all of whom reside near Prospect park, where the majority of Harson's offenses are alleged to have occurred, furnished evidence of a damaging nature against the defendant in court. The state has as many more witnesses in reserve, all of whom will testify before the grand jury in September. State's Attorney Floyd Thompson is personally handling the prosecution.

The Philippine government has minted a special coinage for use in the Culion leper colony. The coins are of aluminum and include pieces of 1 peso, and 20, 10, 5, 1½ centavos. They are accepted at face value for all business carried on within the colony, but are of no value elsewhere.

"Paris is dead," says a dispatch. But Paris is always "dead" when it's the most interesting city on earth.